

REMARKS

Claims 1-20 are pending in the application.

Claims 1, 4, 5, 13, 14, 16, 18 and 20 have been rejected.

Claims 2, 3, 6-12, 15, 17 and 19 are objected to.

The Applicants thank the Examiner for the indication that Claims 2, 3, 6-12, 15, 17 and 19 are allowable.

I. **REJECTION UNDER 35 U.S.C. § 102**

Claims 1, 4, 5, 13, 16, 18 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,699,347 to Callon. The rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

With regards to independent Claims 1, 16, and 20, the Office Action argues that Callon discloses a communication network and method including, inter alia, "if a connection can not be established to the destination via the first gateway, randomly selecting a second gateway from among

the gateways other than the first gateway”, citing Fig. 11 (steps 470, 474) and Col. 15, lines 28-42 of Callon, see Office Action, page 2. The Applicants respectfully submit that the cited figure and text of Callon do not disclose “randomly selecting a second gateway . . .” (Claims 1, 16) or “randomly making a second routing decision” (Claim 20). In fact, Callon discloses determining if a certain path (path 4) is inefficient or not feasible, then determining whether another path (path 2) is feasible and efficient (or not), and if the other path (path 2) is inefficient or not feasible, then determining whether yet another path (path 3) is feasible and efficient, and making a selection based thereupon. Therefore, the selection of a path in Callon is not “random”, as recited in Applicants’ Claims 1, 16 and 20.

With respect to independent Claim 18, Applicants’ claim recites “randomly selects a second gateway . . .” For the same reasons set forth above, Callon does not disclose this element.

With respect to Claims 4, 5 and 13, these claims depend from independent Claim 1, and for the same reasons set forth above with respect to Claim 1, these claims are not anticipated by Callon.

Accordingly, the Applicants respectfully request the Examiner withdraw the Section 102(b) rejection of Claims 1, 4, 5, 13, 16, 18 and 20.

II. REJECTION UNDER 35 U.S.C. § 103

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,699,347 to Callon in view of U.S. Patent No. 6,301,244 B1 to Huang, et al. The rejection is respectfully traversed.

The Office Action argues, as the basis for the 103 rejection, that Callon discloses all the limitations with respect to Claim 1, and that Huang, et al. teaches the additional element recited in Claim 14. For the reasons set forth above, Claim 1 is not anticipated by Callon. Therefore, Applicants respectfully submit that the Office Action has failed to establish a prima facie case of obviousness.

Accordingly, the Applicants respectfully request withdrawal of the § 103(a) rejection of Claim 14.

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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